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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/281,089	03/30/99	KUHN	H 1996A

025280  
MILLIKEN & COMPANY  
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IM52/0522

EXAMINER  
GUARRIELLO, J

ART UNIT	PAPER NUMBER
1771	<i>5</i>

DATE MAILED: 05/22/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/281089	Applicant(s) Kuhn et al.
	Examiner John Guarnello	Group Art Unit 1921

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

P r i o r i t y for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

Responsive to communication(s) filed on 2/9/2001, 3/9/2001

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1-6 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-6 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Pri o r i t y under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Pap r No(s). \_\_\_\_\_  Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892  Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Revi w, PTO-948  Other \_\_\_\_\_

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## **DETAILED ACTION**

15. The examiner acknowledges papers # 3 and 4, the change of address of 2/9/2001, and the response of 3/9/2001.
16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 112***

17. Claims 1, 2, and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 1, it is not clear what the terms “coprecipitate” and “copolymer” encompass since iron oxide hydroxide and aluminum oxide hydroxide are inorganic ionic species **not** polymeric organic species. Applicant’s arguments have been considered but they are not persuasive as

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noted in applicant's cite from the Hackh's Dictionary. If "copolymer" is dropped from the claim, this would overcome the rejection.

In claim 2, line 1, it is not clear what the phrase "substantially goethite" encompasses since there is only a small part which is actually "goethite" as noted from applicant's specification on page 13.

In claim 6, it is not clear what aspects of the preamble "water filtration article" encompass, since a dependent claim is to further limit, when this depends on claims 1 and 2, it is not clear how this further limits.

18. While applicant may be his or her own lexicographer, a term in a claim may not be given a meaning repugnant to the usual meaning of that term. See *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947).

The term "coprecipitate/copolymer" in claim 1 is used by the claim to mean "copolymer," while the accepted meaning is "two monomers." The term "coprecipitate" is **not equivalent** to "copolymer".

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***Claim Rejections - 35 USC § 103***

19. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishino et al. 4,911,957 in view of Watanabe et al. 4,435,220.

Rejection is maintained substantially as in paper # 2 of 1/8/2001.

Applicant's arguments regarding improper hindsight have been considered, but it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the invention was made, and does not include knowledge gleaned **only** from the applicant's disclosure, such a reconstruction is proper, In re McLaughlin, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971). Ishino describes a ferrite film(iron oxide) on the surface or particles or fibers, (column1, lines 65-68). Watanabe describes how metal salts and hydroxide can be used in combination with one another and the proportions can be freely choseed so as to produce the precipitated oxide or hydroxide, (column 2, lines 48-68). The

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claimed invention taken as a whole without any criticality specified would still be obvious to one of ordinary skill in the art.

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone

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number is (703) 308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
John J. Guarriello:gj

Patent Examiner

May 8, 2001

  
Elizabeth M. Cole  
ELIZABETH M. COLE  
PRIMARY EXAMINER